

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

Bail Appl..No. 4027 of 2007()

CRIME NO.593/06 OF KASARAGOD POLICE STATION
CMP.2664/2007 of J.M.F.C.,KASARAGOD
.....

PETITIONER/ACCUSED

DHARMAPALAN,
S/O.SANTHOSH, KASARAGOD KADAPURAM,
KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP.BY OF
THE SUB INSPECTOR OF POLICE,
KASARAGOD POLICE STATION, REP.BY
THE PUBLIC PROSECUTOR, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 04/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.No. 4027 of 2007

Dated this the 3rd day of July, 2007

ORDER

Application for regular bail. The petitioner faces allegations under Section 376 I.P.C. and Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.

2. The victim/prosecutrix, a girl belonging to the Schedule Caste, aged about 17 years, was found missing on 30.8.2006. She was allegedly taken away by the petitioner, a married person with two children, aged about 25 years. On 31.8.06 they both returned and on 1.9.2006 her statement was recorded by the police. On 13.9.06 the petitioner filed an application for anticipatory bail and that was dismissed on the representation of the police that the petitioner is not an accused and that he is not required to be arrested. Long later, S.164 statement of the victim was recorded on 15.11.2006 after a Dy.S.P. took over the investigation. In that statement, she raised an allegation that she was subjected to rape by the petitioner. The petitioner surrendered before the learned Magistrate on 12.6.2007 and he continues in custody from that date.

2. Learned counsel for the petitioner submits that the allegations are totally unfounded and the alleged victim/prosecutrix is subscribing to different versions as the occasion demands. There is absolutely no merit in the allegation that she was either kidnapped or raped by the petitioner. In these circumstances it is prayed that bail may be granted to the petitioner, who has remained in custody from 12.6.2007.

3. The learned Prosecutor opposes the application. He submits that the petitioner has exploited the debilities of the victim and kidnapped and subjected her to sexual intercourse. It is submitted that the petitioner has left no stone unturned to influence, intimidate and threaten the victim. That is how the truth did not come out during the early days. Even subsequently attempts have been made by the petitioner to compel the victim to subscribe to an affidavit absolving himself of all blame. The learned Prosecutor further submits that the investigation is at an early stage. The Investigators may be given some reasonable time to complete the investigation after the arrest of the petitioner.

4. The learned Prosecutor further submits that there is tension and strain in the relationship between the two communities in the locality and

permitting the petitioner to return so quickly to the area of crime would endanger the law and order situation.

5. I have considered all the relevant inputs. I am of the opinion that there is no merit in the prayer of the Prosecutor to ensure continuance of the accused in prison endlessly. Subject to compulsion of a fair, efficient and expeditious investigation, bail can be granted to the petitioner, I am satisfied.

6. In the result:

1) This application is allowed.

2) The petitioner shall be released on bail on the following terms and conditions.

(a) The petitioner shall not be released from custody on the strength of this order prior to 12.7.2007. The Investigators shall in the meantime make every endeavour to complete the investigation.

(b) The petitioner shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to be satisfaction of the learned Magistrate.

(c) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 12 noon on all Mondays for a period of three months from the date of his release.

(d) Except for the purpose of complying with condition © above, the petitioner shall not enter the jurisdiction of Kasaragod police station for a period of two months from the date of his release.

(R. BASANT)
Judge

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